

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PRUDENTIAL INVESTMENT MANAGEMENT
SERVICES LLC, and PRUDENTIAL BANK &
TRUST, FSB,

Plaintiffs,

-against-

MICHAEL J. FORDE, MARY JANE FORDE, THE
NEW YORK CITY DISTRICT COUNCIL OF
CARPENTERS ANNUITY FUND, PAUL
TYZNAR, JOHN DELOLLIS, CATHERINE
CONDON, DAVID T. MEBERG, PAUL
O'BRIEN, KEVIN O'CALLAGHAN, JOSEPH S.
KAMING, CHRISTOPHER WALLACE,
STEPHEN MCINNIS, JOHN SHEEHY, PAUL
CAPURSO, and MICHAEL CAVANAUGH,

Defendants.

12 CV 5168 (LAP) (GWG)

**STIPULATION
AND ORDER
OF SETTLEMENT
AND DISMISSAL
WITH PREJUDICE**

IT IS HEREBY STIPULATED by all parties to the above-captioned action, by and through their undersigned counsel, that all claims by or against all parties are resolved on the following terms and conditions:

1. For purposes of this Stipulation and Order, the following terms have the following meanings:

- a. "Prudential" means Prudential Investment Management Services LLC and Prudential Bank & Trust, FSB.
- b. "Annuity Fund" means the New York City District Council of Carpenters Annuity Fund and the trustees thereof.
- c. "Disputed Assets" means all assets that were "rolled over" from the Annuity Fund account of Michael Forde to an individual retirement account in Michael Forde's name, and the net earnings and proceeds of such assets.

- d. “IRA” means the Prudential rollover individual retirement account that currently contains the Disputed Assets.
- e. “Current value of the IRA” means the value of the IRA as of the end of the business day preceding the date on which Prudential effectuates the return of assets to the Annuity Fund in accordance with paragraph 2 of this Stipulation and Order, unless the parties agree in writing to a different valuation date.
- f. “2011 Action” means the civil action in this Court styled *New York City District Council of Carpenters Pension Fund, et al. v. Michael Forde, et al.*, 11 CV 5474 (LAP) (GWG).
- g. “Interpleader Bond” means Western Surety Company’s Bond No. 929567755 in the amount of \$676,861.83, which Prudential posted with the Clerk of the Court, pursuant to 28 U.S.C. § 1335, on or about May 3, 2013.
- h. The “Entry Date” of this Stipulation and Order means the date on which it is “So Ordered” by the Court and entered on the docket.

2. Within five business days after the Entry Date of this Stipulation and Order, Prudential shall return to the Annuity Fund 72.5% of the current value of the IRA, in full satisfaction of the Annuity Fund’s right to offset Michael Forde’s annuity benefits, as authorized by paragraph 4 of the Amended Final Judgment Against Michael Forde in the 2011 Action, dated April 4, 2019, and the statutory provision cited therein. The plaintiffs in the 2011 Action shall have no claim to the remaining 27.5% of the current value of the IRA.

3. The Annuity Fund’s counsel shall promptly notify the Clerk of the Court once Prudential has complied with paragraph 2 above. Upon receipt of such notification, the Clerk of the Court is authorized and directed to return the Interpleader Bond to Prudential.

4. Pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, except as otherwise stated in this Stipulation and Order, all claims by and/or against all parties to the above-captioned action, including but not limited to all cross-claims, are hereby dismissed with prejudice.

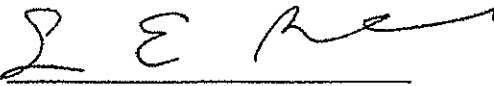
5. Each party shall bear his, her, or its own attorneys' fees, costs, and expenses.

6. The Court retains jurisdiction solely to enforce this Stipulation and Order, and/or to resolve any dispute regarding the interpretation or implementation of this Stipulation and Order.


[Signatures appear on the following page.]

Dated: New York, New York
June 20, 2019


BRUNE LAW P.C.

By: 
Susan E. Brune
450 Park Avenue, Suite 1901
New York, New York 10022
(212) 668-1900
*Counsel for Plaintiffs Prudential
Investment Management Services
LLC, and Prudential Bank & Trust,
FSB*

VIRGINIA & AMBINDER, LLP

By: 
Marc A. Tenenbaum
40 Broad Street, 7th Floor
New York, New York 10004
(212) 943-9080
*Counsel for Defendants The New York
City District Council of Carpenters
Annuity Fund, Paul Tyznar, John
DeLollis, Catherine Condon, David T.
Meberg, Paul O'Brien, Kevin
O'Callaghan, Joseph S. Kaming,
Christopher Wallace, Stephen
McInnis, John Sheehy, Paul Capurso,
and Michael Cavanaugh*

LOMBARDI & SOLERNO PLLC

By: 
Dino J. Lombardi
52 Duane Street, 7th Floor
New York, New York 10007
(212) 619-8328
*Counsel for Defendants Michael
Forde and Mary Jane Forde*

IT IS SO ORDERED this _____ day of _____ 2019.

LORETTA A. PRESKA
UNITED STATES DISTRICT JUDGE